

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**UNITED STATES OF AMERICA**

**VS.**

**PHILLIP BRYAN STEWART**

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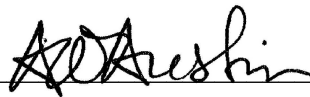
**NO. A-04-CR-099 SS**

**ORDER**

Came on to be heard the above-referenced case for a preliminary hearing on the Petition for Warrant or Summons for Offender Under Supervision (Clerk's Doc. No. 34). The Court finds no probable cause to support the third alleged violation. The only evidence presented on that claim (that the Defendant failed to provide a urine sample on March 10, 2009) was that the Defendant misunderstood the color-code call in instructions, and did not realize he was required to provide a sample that day. This took place nearly two years ago, during the first month of his supervision, and he has not missed a sample since, and is on the lowest monitoring for drug usage possible (other than no monitoring), The Defendant was admonished at the time he missed the sample.

For these reasons, probable cause that the Defendant knowingly violated this condition is lacking. ACCORDINGLY, the third alleged violation of the Petition is hereby DISMISSED WITHOUT PREJUDICE.<sup>1</sup>

SIGNED this 29<sup>th</sup> day of December, 2010..



ANDREW W. AUSTIN  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup>It is puzzling why the probation office chose to include this allegation in its petition, given that the issue was addressed at the time it took place, and plainly would not support revocation.